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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,193	12/18/2006	Bernhard Vogel	11371/93	8125

7590 09/15/2009  
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EXAMINER
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AKINYEMI, AJIBOLA A

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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09/15/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/568,193	<b>Applicant(s)</b> VOGEL ET AL.	
	<b>Examiner</b> AJIBOLA AKINYEMI	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings Objection***

1. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 11-14, 16 -19 are rejected under 35 U.S.C. 102(e) as being anticipated by Wada (Pub. No.: JP 2003-169381).

With respect to claim 11:

Art Unit: 2618

Wada discloses a protective device for protecting a second device **(tag, which is represented by transmitter 2 in drawing 1. this tag is integrated in a medical equipment carry by human being)** from the electromagnetic radiation of a first device **(mobile telephone in drawing represented by item 1 in drawing 1)** that is part of a radio network, the first device having a transmitter that emits the electromagnetic radiation **(item 4, in drawing 1)**, wherein at least one of the first device or the second device can be changed in location **(cellphone and the tag can be change in location)**, the protective device comprising; a wireless interrogation system associated with one of the first device or the second device (parag. **(parag.0034-0036)**), which cooperates with a reflecting device associated with the other of the first device **(mobile telephone in drawing represented by item 1 in drawing 1)** or the second device **(tag, which is represented by transmitter 2 in drawing 1. this tag is integrated in a medical equipment carry by human being)** so as to determine an electromagnetic field strength at the one of the first device or the second device having the wireless interrogation system or a distance between the first device and the second device **(parag.0034-0036)**, wherein the protective device is switched between a normal operating mode and a special operating mode when the electromagnetic field strength is above a threshold **(parag.0039-0042, the mobile phone switches the operation to a special mode for outputting an alarm, turning the power off or reducing the wave strength of the radio wave signal).**

With respect to claim 12:

Art Unit: 2618

Wada discloses a protective device wherein the transmitter has a transmit power that is dependent on the operating mode **(parag.0036)**.

With respect to claim 13 and 18:

Wada discloses a device herein special operating mode of one of the devices includes an output of a warning report **(abstract. and parag.0040)**.

With respect to claim 14 and 19:

Wada discloses a protective device wherein the output of the warning report by the first device includes a warning against a closer approach to the second device or an indication of a required greater distance from the second device **(parag.0041)**.

With respect to claim 16:

Wada discloses a method for protecting a second device **(tag, which is represented by transmitter 2 in drawing 1. this tag is integrated in a medical equipment carry by human being)** from electromagnetic radiation emitted by of a first device **(mobile telephone in drawing represented by item 1 in drawing 1)** that is part of a radio network, the first device having a transmitter that emits the electromagnetic radiation **(item 4, in drawing 1)**,, the method comprising: providing a contactless proximity measuring system having a transponder on one of the first device or the second device **(tag, which is represented by transmitter 2 in drawing 1. this tag is integrated in a medical equipment carry by human being)**, and a reflecting device **(drawing 1 shows how waves and transmitted and reflected back)** on the other of the one of the first device or the second device; determining a distance between the first device and the second device, or the second device and the first device **(drawing 1)**; and switching

Art Unit: 2618

between a normal operating mode and a special operating mode of one of the devices when a distance between the devices is a short distance, wherein, the transmitter is operated at reduced transmission power in the special operating mode (**parag.0039-0042, the mobile phone switches the operation to a special mode.**

With respect to claim 17:

Wada discloses a method wherein upon switchover to a special operating mode, the operation of the transmitter is terminated (**parag 0046**).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claim 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wada (Pub. No.: JP 2003-169381).

With respect to claim 15 and 20:

Art Unit: 2618

The rejection of claim 13 is incorporated; Wada did not explicitly disclose a warning that the second device may be harmed by the first device but it would have been obvious to one of ordinary skill in the art at the time the invention was made to know that outputting a warning report between a first device and second device move close to each other could cause damage to either of the two devices.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJIBOLA AKINYEMI whose telephone number is (571)270-1846. The examiner can normally be reached on monday- friday (8.30-5pm) Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, YUWEN PAN can be reached on (571) 272-7855. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AA  
/Yuwen Pan/  
Primary Examiner, Art Unit 2618